

**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Relay Services and	)	CG Docket No. 03-123
Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	
Disabilities	)	
	)	
Structure and Practices of the Video Relay	)	CG Docket No. 10-51
Service Program	)	

**Interstate Telecommunications Relay Services Fund**

**Payment Formula and Fund Size Estimate**

Rolka Loube Associates LLC  
4450 Crums Mill Road  
Suite 303  
Harrisburg, PA 17112

April 30, 2020

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**Payment Formula and Fund Size Estimate  
Interstate Telecommunications Relay Services (TRS) Fund  
For July 2020 through June 2021**

**I. Introduction**

Rolka Loube Saltzer Associates LLC dba Rolka Loube (RL), as Interstate Telecommunications Relay Services (TRS) Fund Administrator (the Administrator), herein submits proposed compensation rates, demand projections, projected fund size and proposed carrier contribution factors for the period July 1, 2020, through June 30, 2021, in accordance with section 64.604 of the Federal Communications Commission's (FCC or Commission) rules.<sup>1</sup>

The Administrator projects a net fund cash requirement for fund year 2020-2021 of \$1,634,678,939. The net fund cash requirement is the product of rates calculated consistent with Commission Orders and Rules; demand projections for each supported service; administrative overheads; and a budgetary reserve less the projected prior year

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<sup>1</sup> 47 C.F.R. §64.604 (c)(5)(iii)(H).

fund balance. The projected contribution factor supporting IP CTS is 0.00941 based on the IP CTS revenue requirements divided by estimated interstate and intrastate end-user revenue. The projected contribution factor for all other fund requirements is 0.01381 based on the balance of the TRS Fund revenue requirement divided by the estimated interstate end-user revenue.

In accordance with the Commission's 2007 *Cost Recovery Order*,<sup>2</sup> the Administrator has used the Multi-state Average Rate Structure (MARS) methodology, based on the weighted average of competitively bid state rates, to propose compensation rates for interstate Traditional Relay Service (TRS) (\$3.7526 per minute), interstate Speech-to-Speech (STS) (\$4.8836 per minute), and interstate Captioned Telephone Service (CTS) (\$2.3153 per minute).<sup>3</sup>

The IP Relay compensation rate is subject to a price-cap-like methodology as further described in the 2019-2020 Rate Order (\$1.7146 per minute)<sup>4</sup>.

In the *IP CTS Modernization and Reform Order*, the Commission terminated use of the MARS methodology for IP CTS, adopted interim rates for the provision of IP CTS for fund years 2018-19 and 2019-20, and established a Further Notice of Proposed Rulemaking<sup>5</sup>. That proposed Rulemaking remains pending.

Per the 2017 *Report and Order and Order*,<sup>6</sup> the Commission determined that maintaining a tiered Video Relay Service (VRS) rate structure for the next four years (until June 30, 2021) was the best alternative structure under consideration and indicated

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<sup>2</sup> Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd. 20140 (2007) (Cost Recovery Order)

<sup>3</sup> Only the interstate costs of these services, which are offered through state relay programs, are supported by the TRS Fund. Currently, IP CTS, Internet Protocol Relay services and Video Relay Services are not offered through state relay programs and are funded solely through the TRS Fund.

<sup>4</sup> See Order, CG Docket No. 03-123 and CG Docket No. 10-51, rel. June 28, 2019 at paragraphs 8-20.

<sup>5</sup> Misuse of Internet Protocol (IP) Captioned Telephone Service, CG Docket No. 13-24 and CG Docket No. 03-123, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking and Notice of Inquiry, rel. June 8, 2018,

<sup>6</sup> See: FCC 17-86 rel. July 6, 2017.

that the VRS compensation rate structure would be revisited as necessary, in light of future developments.

A Commission *Report and Order*<sup>7</sup>, amended the contribution rule to provide that TRS Fund contributions for the support of IP CTS shall be calculated based on the total interstate and intrastate end-user revenues of each telecommunications carrier and VoIP service provider beginning with the 2020-2021 program year<sup>8</sup>. The total contributions needed to support the TRS Fund are not affected, therefore two contribution factors are calculated and included: (1) to support IP CTS requirements and (2) to support the traditionally calculated factor for all other service requirements. The Commission required a separate contribution factor for IP CTS that is applied to all the end-user revenues for each TRS Fund contributor. As the first step in implementing the approach, the Administrator is directed to determine an IP CTS revenue requirement, based on the applicable IP CTS compensation rate(s) and projected demand. The IP CTS revenue requirement shall also include the portion of the TRS Fund reserve that is attributable to IP CTS. Next, based on the total intrastate and interstate end-user revenue data reported by TRS Fund contributors on Forms 499-A, the Administrator shall compute a separate TRS Fund contribution factor for IP CTS, by dividing the IP CTS revenue requirement by contributors' total intrastate and interstate end-user revenues. Calendar year 2019 end-user revenues, estimated by the Data Collection Agent (DCA), were still being gathered and compiled from reporting entities when this recommendation was prepared for submission. The revenue estimate contains placeholders for reports which are not deemed late until after the due date of May 1 for this Annual Report. We recommend, as we have in prior years, that the Commission use the current best available 499-A information from the DCA to recalculate the contribution factors when it becomes available, prior to adoption of an Order for the upcoming program year. Our current recommendation has been calculated using the latest information available at the time of this submission. According to the best available estimate, the annual interstate contribution base for 2020-21 is \$44,595,858,727, which is approximately 12% below the

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<sup>7</sup> See Report and Order, CG Docket No. 13-24 and CG Docket No. 03-123, released November 25, 2019.

<sup>8</sup> See Public Notice of Effective Date rel. January 10, 2020 identifying the effective date of the rule change to be February 5, 2020.

level used for the current program year, And the estimated intrastate and interstate end-user services revenue contribution base for 2020-21 is \$108,240,077,298. The contribution factors for the 2020-2021 fund year, derived from the corresponding ratio of estimated fund size requirements to prior calendar year revenues, are proposed to be 0.01381 for interstate contributors, to fund all services except IP CTS and 0.00941 for interstate and intrastate contributors to fund IP CTS. Upon approval by the Commission, the Administrator will begin billing carriers for the 2020-2021 funding period in July 2020.

## **II. Interstate TRS Fund Overview**

The Interstate TRS Fund (TRS Fund/fund) is designed to compensate eligible relay service providers<sup>9</sup> for the reasonable costs of furnishing “[t]elephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals in a manner that is functionally equivalent to the ability of a hearing individual who does not have a hearing or speech disability to communicate using voice communications services by wire or radio.”<sup>10</sup>

Services that are currently compensated from the TRS Fund include interstate traditional Telecommunications Relay Service (TRS), interstate Captioned Telephone Service (CTS), interstate Speech-To-Speech relay service (STS), Video Relay Service (VRS), Internet Protocol (IP) Relay service, and Internet Protocol Captioned Telephone Service (IP CTS). The Administrator reimburses providers at compensation rates computed by the Administrator in accordance with Commission rules and approved or modified by the Commission. In 2007, the Commission’s *Cost Recovery Order* adopted methodologies for establishing the reimbursement rates for the various relay services.<sup>11</sup>

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<sup>9</sup> Eligible providers are TRS providers operating under contract with state TRS programs and Internet Protocol (IP) Relay providers certified by the Commission pursuant to 47 C.F.R. § 64.606.

<sup>10</sup> 47 U.S.C. § 225(a)(3).

<sup>11</sup> The methodologies included price caps for IP Relay and a tiered rate structure for VRS. The Commission set IP Relay and VRS rates for a period of 3 years and confirmed that the initial year for the applicability of the rates was the 2007-2008 fund year. The initial three year period for the IP Relay and VRS methodologies sunset as of June 30, 2010. See *Cost Recovery Order* ¶¶ 97, 107-108. In the 2010

This Annual Report incorporates the costs reported by VRS, IP Relay and IP CTS service providers as part of their incurred costs for calendar years 2018 and 2019, as well as any amounts projected for 2020 and 2021. The provider Annual Reports, including demand and cost projections were made prior to experiencing any impacts of the COVID-19 pandemic, and therefore were not reflected in the provider Annual Reports. As the Administrator, RL has invited service providers to report material changes to their annual cost and demand projections and will monitor those provider reports of cost and demand changes which may materially impact costs or demand projections supporting the Order and contribution factors adopted in this proceeding for the 2020-2021 fund year.

In mid-March the Commission recognized that due to widespread public concern about the spread of the coronavirus, (COVID-19), as well as school closings and other measures recently taken by various state and local authorities, TRS providers are experiencing a sharp increase in traffic levels, and simultaneously, a sharp reduction in the number of communications assistants (CAs) able to work at TRS call centers. The Commission on its own motion granted temporary waivers<sup>12</sup> of certain requirements under sections 64.604 and 64.606 of the Commission's rules in order to ensure the uninterrupted availability of TRS in the United States during this public health emergency. The reported demand for IP based services in March 2020, spiked above the projected 2019-2020 monthly levels. The increased demand is presumed to be associated with COVID-19 pandemic. The level of demand experienced by the service providers for the second half of March ranged from 25% to 33% above recently experienced levels. Service providers also orally reported that they are experiencing additional (undocumented) costs as the pandemic impacts the availability of CAs and the expense of provisioning alternate arrangements for CAs working from home. Historically the Administrator has recommended accepting the service provider demand and cost

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*Rate Order* the Commission initiated a new 3-year cycle for IP Relay rates and adopted interim, one-year rates for VRS, to be effective while the Commission considered broad reform. In the *2013 Rate Order* the Commission initiated another 3-year cycle for IP Relay rates. In the 2013 VRS Reform Order the Commission established new VRS tiers and set rates in six month increments through June 2017.

<sup>12</sup> See CG Docket Nos. 03-123 adn10-51 Rel. March 16, 2020, DA20-281.

projections, but under the current circumstances, acceptance of projections made prior to knowledge of the impact of the pandemic on demand and costs is misplaced. Per minute costs are a function of both cost and demand levels. Although both appear to be increasing relative to the historic and projected levels, neither can be accurately reflected with the limited amount of data available. Therefore, in order to ensure that the TRS Fund projects adequate revenues for the upcoming program year, although we are not recommending additional reimbursement level adjustments, the Administrator is recommending that the levels of projected demand be increased by an additional twenty five percent (25%) when calculating requirements and contribution factors.

The Commission's shared funding mechanism for the TRS Fund ensures that the costs of meeting relay service obligations are borne equitably. Contributors support the TRS Fund based on their relative share of intrastate, VoIP, interstate and international end-user revenues.<sup>13</sup> The TRS funding period begins on July 1st and ends June 30th of the following calendar year. For the July 2020 to June 2021 fund year, the Administrator has used the carriers' estimated 2019 end-user revenues<sup>14</sup> as the basis for calculating carriers' contribution obligations. The interstate and international contribution base has become smaller each year and the reductions to the contribution base are shown in the following table 1. RL anticipates a 12% reduction in the interstate contribution base for the program year beginning July 1, 2020, for a contribution base of \$44,595,858,727. This will be the first occasion for the use of the combined intrastate and interstate end-user revenues as a portion of the contribution base; therefore we are not reporting on historic changes to the intrastate portion of the contribution base estimate of \$108,240,077,298.

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<sup>13</sup> See 47 C.F.R. §64.604(c)(5)(iii)(A)-(C).

<sup>14</sup> Revenues are reported on the Telecommunications Reporting Worksheet, FCC Form 499-A, on April 1, 2020, and provided to the Administrator by the Universal Service Administrative Company (USAC), the Revenue Data Collection Agent (DCA). At the time of preparation of this filing, the information from the DCA is considered preliminary and updated data will be used for the calculation of carrier contributions.



**Table 1 DCA Reported Contribution Base**

<b>Program Year beginning</b>	<b>Contribution Base</b>
2004	\$ 81,954,191,761
2005	\$ 80,666,621,324
2006	\$ 80,457,972,602
2007	\$ 77,898,078,806
2008	\$ 79,428,092,243
2009	\$ 78,895,806,171
2010	\$ 72,844,997,816
2011	\$ 69,450,220,823
2012	\$ 67,206,226,973
2013	\$ 67,278,109,560
2014	\$ 65,234,609,107
2015	\$ 64,129,341,109
2016	\$ 61,424,575,348
2017	\$ 58,034,785,511
2018	\$ 53,380,042,779
2019	\$ 50,876,678,778
2020	\$ 44,595,858,727

The DCA also provides updates to the data reported by carriers throughout the program year to reflect a variety of changed contributor circumstances, such as gone out of business, no telecommunications revenues, bankruptcies, mergers and acquisitions. The contribution base changes from year to year, and changes over the course of the program year. Changes to the contribution base reported to the Administrator by the DCA during the current program year have reduced the available funding level by approximately \$2 million.<sup>15</sup> This erosion of funding is one of the factors considered in recommending a two month budgetary reserve allowance but the erosion of funding has not been a specific item included in the net funding requirements.

The DCA provides the Administrator with the FCC Form 499-A carrier revenue information used to calculate the contribution factor and maintains the carrier database

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<sup>15</sup> See Exhibit 4.  $(\$50,883,758,423 - \$50,809,259,296) * 0.02779 = \$2,070,330.74$

for all funds. Revisions to FCC Form 499-A revenue data are provided by the DCA to the Administrator and other program managers so that corrections may be made to carrier billing. Revisions may be telecommunications service provider initiated or may be the result of an audit. The first edition of the reported 2020 499-A submissions is provided to the Administrator on or about April 20<sup>th</sup>. Each subsequent month, the DCA will provide updated information including information received from contributors that did not file by April 1<sup>st</sup>. During the first several months of the program year, there are substantial adjustments to the contribution base derived from the first edition of the reported 2020 499-A submissions.<sup>16</sup> The Administrator anticipates submitting an updated contribution factor recommendation to the Commission for consideration in response to the Public Notice regarding this submission.

Upon approval of the contribution factors by the Commission, the Administrator will promptly bill carriers for the 2020-2021 funding period which begins July 1, 2020. Annual contributions will be due within 28 days after their July invoice date. Carriers whose contributions are \$1,200 or more have the option to be invoiced in twelve equal monthly installments. Invoices will be due four weeks after the issue date of the monthly invoice. RL has assigned each monthly contributor to one of three monthly invoice cycles and issues approximately one third of the monthly invoices on the first three Fridays of each month.

RL expects to begin issuing invoices for the 2020-2021 program year on or about Friday, July 17, 2019. Receipts associated with those invoices will begin to arrive in mid-August. This lag in the receipt of revenues is not currently recognized as significant because there has not been a material change in the yield of the contribution factor great enough to impact cash flow associated with the final billing cycles.

Per-minute compensation rates will be effective for minutes of service beginning July 1st, at the rates approved by the Commission. Although the Administrator generally has been able to process requests for compensation submissions in less than 30 days, provider reimbursement requests must be processed within sixty (60) days<sup>17</sup>. For

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<sup>16</sup> See Exhibit 4 regarding changes reported during the current program year.

<sup>17</sup> See 47 C.F.R. 64.604(C)(5)(iii)(L)

example, minutes handled by providers in May 2020 are expected to be reported between June 10 and 15, 2020, and providers will then receive compensation for those minutes at the rates in effect at the time service was provided, on or about July 10, 2020.<sup>18</sup> This lag between the provision of services and the issuance of payments is reflected in the demand and cash flow projections, and forms the basis of the recommended TRS Fund reserve requirements.

### III. TRS Rate Development

#### MARS

The *Cost Recovery Order* adopted the Multi-state Average Rate Structure (MARS) plan as the basis for calculating the compensation rate for interstate Traditional Relay Service (TRS), interstate Speech-To-Speech (STS), and interstate Captioned Telephone Service (CTS).<sup>19</sup> Each year, the Administrator will calculate a MARS rate for interstate TRS, STS, and CTS, based on the weighted average of state rates. TRS and STS are calculated on a combined basis, whereas CTS is calculated separately.<sup>20</sup>

The Commission identified the steps to be used by the Administrator to determine MARS-based compensation rates.<sup>21</sup> The Administrator must first collect intrastate traditional TRS, STS, and CTS compensation rate data for the prior calendar year. Accordingly, the Administrator requested the following information from each state TRS administrator, and each provider, of interstate traditional TRS, STS and CTS for calendar year 2019 in January 2020, and requested that it be provided no later than the end of February 2020:<sup>22</sup>

- a. the per-minute compensation rate for intrastate TRS and STS
- b. the per-minute compensation rate for intrastate CTS
- c. whether the rate applies to session or conversation minutes

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<sup>18</sup> See Exhibit 3, Anticipated Reporting and Disbursement Schedule. The reporting and disbursement schedule is subject to modification based on exogenous circumstances.

<sup>19</sup> Cost Recovery Order at ¶ 16.

<sup>20</sup> *Id.*

<sup>21</sup> Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51, FCC 11-104, Rel. June 30, 2011 at ¶¶ 9-18.

<sup>22</sup> The Annual Data Collection Form is included at Appendix A.

- d. the number of intrastate session minutes for TRS and STS
- e. the number of intrastate session minutes for CTS
- f. the number of intrastate conversation minutes for TRS and STS
- g. the number of intrastate conversation minutes for CTS
- h. any amounts paid by the state to the provider for relay service during the previous calendar year that are not included in the contractual per-minute compensation rate.

The Administrator determines whether there are anomalies in any state's data that necessitate it being excluded from the MARS calculation;<sup>23</sup> calculates each state's total dollars paid for the year for intrastate traditional TRS, STS, and CTS services; and calculates the final rate by dividing the total dollars paid by all states by the total conversation minutes of all states for TRS and STS. The process is repeated for CTS.

#### **A. Traditional TRS and STS Formula Development**

Ten state jurisdictions<sup>24</sup> provide service based on a flat rate for the service rather than on a per-minute rate, due to the small volume of minutes for the services in those jurisdictions. Costs recovered on a flat rate basis are included in the MARS calculation as additional costs paid to providers. The conversation minutes of flat rate states have been included in the calculation. For the remaining states, the District of Columbia, and Puerto Rico, the Administrator multiplied each jurisdiction's TRS and STS rate by the corresponding number of intrastate session minutes or intrastate conversation minutes, whichever the jurisdiction's rate was based upon.<sup>25</sup> For those states experiencing a mid-year rate change, the calculation was performed for each rate and corresponding service period minutes. The calculation was made for each jurisdiction and the resulting weighted dollar amounts were summed to produce a total dollar amount for each service. If additional amounts paid by a state to the relay service provider(s) during the applicable period and were not included in the contractual per-minute compensation rate, but were applicable to the provision of relay service, those amounts were added to the weighted

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<sup>23</sup> For example, if there were no state TRS Fund and the cost of providing Relay services were recovered by the service provider based on each LEC's proportionate share of subscriber lines in the state, MARS-like data would not be available and thus, would be excluded from the MARS computation.

<sup>24</sup> Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, North Carolina, North Dakota, Rhode Island, and South Carolina.

<sup>25</sup> *Id.* at ¶ 30

dollar total by the Administrator.<sup>26</sup> As a final step, the Administrator divided the resulting total weighted dollar and supplemental payment amount by the total number of intrastate TRS and STS conversation minutes.<sup>27</sup> The results of this calculation can be found in Exhibit 1-1, which displays the array of rates reported by the individual state jurisdictions in ascending rate order. It does not identify the states in deference to provider requests for confidentiality.

RL hereby renews its recommendation that the Commission authorize future reports to identify the rates and demand by state, unless the reporting state asserts a claim of confidentiality regarding its compensation rates. Only two providers currently provide state services reflected in the MARS calculations.

The total dollar amount paid out for intrastate TRS and STS during calendar year 2019 amounted to \$17,569,659.68. The total conversation minutes for intrastate TRS and STS for calendar year 2019 were 4,682,017. The proposed compensation rate is developed by dividing the total 2019 intrastate dollar amount by the total 2019 intrastate conversation minutes, resulting in a proposed MARS rate of \$3.7526 per conversation minute for interstate traditional TRS for the 2020-2021 funding period. The proposed rate is approximately 20% above the 2019-2020 MARS rate of \$3.1107 per conversation minute.

In the *Cost Recovery Order*, the Commission added an additional amount of \$1.131 to the 2007-2008 interstate STS compensation rate to be used by the providers for outreach efforts.<sup>28</sup> In the ensuing fund years, the Commission has found it appropriate to continue the outreach additive at the same level.

The Administrator continues to recommend adding the \$1.131 to the MARS-based STS rate resulting in a total proposed STS rate of \$4.8836 per minute; an increase

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<sup>26</sup> *Id.* at ¶ 31

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at ¶¶ 57, 61

of 15% from the \$4.2417 per-minute rate for the 2019-2020 fund year.<sup>29</sup> However, the Administrator notes that the demand for STS continues to be small compared to the other services. The outreach additive, projected to be less than \$200,000( $\$1.131 * 169,575$  minutes = \$191,789) across the two service providers when applied to the per-minute rate, may not be having the desired result. The Administrator lacks adequate information to determine if this community is being adequately served or to determine the underlying cause of the continued reduction in the volume of this service.

### **B. CTS Formula Development**

The proposed MARS CTS rate was calculated by following the same steps described above but substituting CTS related data for the TRS and STS data. The results of this calculation can be found in Exhibit 1-2. Exhibit 1-2 summarizes the data provided by the individual state jurisdictions.

The total dollars for intrastate CTS, including the amounts paid to relay providers not included in the compensation rate, declined 22% from \$28,300,248 for calendar year 2018 to \$22,211,654.55 for calendar year 2019. The total conversation minutes for intrastate CTS also declined 22% from 12,414,889 for calendar year 2018 to 9,593,579 for calendar year 2019. The total 2019 intrastate dollars divided by 2019 intrastate CTS minutes equals a calculated compensation rate of \$2.3153 per conversation minute for interstate CTS for the 2020 – 2021 funding period.

The proposed MARS CTS rate represents a 1.5% increase from the 2019–2020 rate of \$2.2795. The associated fund revenue requirement at this reimbursement rate level will be \$6,641,290 in program year 2020-2021, a decrease of \$56,003 ( $\$6,641,290 - \$6,585,287 = \$56,003$ ) from the amount projected for the program year ending June 30, 2020.

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<sup>29</sup> At its April 2018 meeting, the Interstate TRS Advisory Council was informed of the Administrator's intent to recommend that \$1.131 per minute of extra funding for speech to speech outreach purposes be maintained.

### C. IP CTS Formula Development

The RL 2019 Annual Data Collection Form requested historical cost data regarding the provision of IP CTS in calendar years 2018 and 2019 as well as projected costs for 2020 and 2021 based on the cost categories reported by service providers for IP based services and for VRS services. The results of analysis of that IP CTS data are found in Exhibit 1-3. Exhibit 1-3 contains information compiled by the Administrator from annual cost data supplied by IP CTS service providers for the annual periods 2015 through 2019, as well as the current projected costs for both 2020 and 2021. This Exhibit demonstrates that the MARS-based calculation of a rate for IP CTS, consistently produced a rate well above the reported level of provider-reported costs for the period. Based on the number of reported minutes of service, IP CTS continues to be the most popular TRS service. In the *IP CTS Modernization and Reform Order*, the Commission eliminated the use of MARS to calculate IP CTS rates and adopted interim rates for the provision of IP CTS, effective from July 1, 2018, through June 30, 2020. For the period July 1, 2019, through June 30, 2020, the interim rate established by the Commission is \$1.58. This rate can only be changed by Order of the Commission. The rulemaking initiated in the *IP CTS Modernization and Reform Order* remains open and therefore the Administrator's calculated revenue requirement is made based on a continuation of the currently authorized rate of \$1.58 per minute.

In the past, the Commission has raised concerns about the extent to which projected costs provide a reliable basis for setting TRS compensation rates. In the VRS context, the Commission has often resolved this issue by using a weighted average of providers' historical and projected per-minute costs to set compensation rates. The Commission recently found this blended approach to be a reasonably accurate predictor of actual VRS costs and followed this approach in setting interim IP CTS rates.<sup>30</sup>

The total industry average cost for IP-CTS service decreased from \$1.2798 in 2016 to \$1.2485 in 2019, while the average state-program CTS rate, as calculated under the MARS formula, increased from \$1.9058 to \$2.2795 in 2019 over the same period and

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<sup>30</sup> See FCC 18-79 Rel. June 8, 2018 at para. 23.

will be \$2.3153 for 2020-2021. Major factors causing the difference between the average IP CTS cost and the average CTS rate are the growth in the demand for IP-CTS, which generates economies of scale for providers, and the contrasting decrease in the demand for CTS service, with the inverse effect. If the MARS approach had continued to be applied in 2019-2020, approximately 9.6 million 2019 CTS conversation minutes would have been used to establish the reimbursement rate for 520.7 million minutes of provider pre-pandemic projected (July 2020 through June 2021) IP CTS demand. The demand for IP CTS service exceeded 50 times the level of demand for the service that would be used as a proxy to establish its reimbursement rate if the CTS rate were to be used!

The average cost-based rate for IP CTS, based on provider-projected costs for 2020 and 2021, plus a 10% operating margin, is approximately \$1.3878.<sup>31</sup> The reported average cost continues to decline in every category, except for depreciation. The reported costs of the highest cost providers also continued to decline. The average projected costs however indicate a reversal of the decreasing average costs in light of increasing projected expenditures in the categories of indirect costs, marketing and “other,” which also increase the operating margin. The category “other” includes primarily sub-contracted services and license fees. The rate of \$1.58 adopted by the Commission in FCC 18-79 to be effective through the period ended June 30, 2020 is above the average projected provider cost plus the operating margin. However, not only do the reported and projected costs of the five service providers vary among the cost categories, as with all averages there are providers whose costs are above the average provider-projected costs for 2020-21, plus a 10% operating margin and those that are below the average provider-projected costs for 2020-21, plus a 10% operating margin.

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<sup>31</sup> See Exhibit 1-3.



#### **D. IP Relay Formula Development**

*[Due to the single provider offering service cost information has been redacted from this recommendation.]*

The Commission adopted a cost recovery methodology for IP Relay based on a price-cap-like methodology, effective for the 2019-2020 fund year, beginning a new three-year rate cycle. The resulting 2019-2020 rate of \$1.67 per minute included an allowance for costs of outreach efforts necessary to reach consumers who are deaf-blind<sup>32</sup> as well as a number of adjustments to the rate calculation to align IP Relay rate setting with recent Commission precedent and address gaps in the national outreach program.

*Operating Margin.* To harmonize the setting of an IP Relay compensation rate with recent Commission policy determinations on TRS compensation, the Commission replaced the allowed rate of return on capital investment with an allowed operating margin, which permits recovery of a designated percentage of average expenses, as a supplement to recovery of average expenses within the same zone of reasonableness established for VRS, a range between 7.6% and 12.35% and designated the high end of the range for use in making the calculation.

*Research and Development.* The Commission also concluded that the research and development costs described in Sprint's 2019 waiver request are allowable expenses that may be recovered without the necessity of a waiver.

*Cost Averaging.* Also consistent with recent Commission policy determinations regarding other forms of TRS, in setting a new base compensation rate for IP Relay the Commission relied on a cost calculation that averaged Sprint's projected costs for 2019 with its historical costs reported for 2018.<sup>33</sup>

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<sup>32</sup> To enable such outreach, the Bureau granted a limited waiver of the rule disallowing TRS Fund compensation for IP Relay outreach costs. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 10-51 and 03-123, Order, 31 FCC Red 7246, 7250-52, paras. 13-20 (CGB 2016) (*2016 TRS Rate Order*).

<sup>33</sup> The Commission recently affirmed the use of this blended approach for setting VRS compensation rates, and it also followed this approach in setting interim compensation for IP CTS providers. *See 2017 VRS Rate Order*, 32 FCC Red at 5928-29, para. 69; *2018 IP CTS Modernization and Reform Order*, 33 FCC Red at 5813, para. 23. The Commission has found that using an average of projected costs for the calendar year in which a rate is established (in this case 2019) and historical costs for the preceding calendar year (in

*Outreach to the Deaf-Blind Community.* The Commission renewed for one year the partial waiver of the Commission's prohibition on outreach cost recovery, which was initially granted in 2016, and renewed in 2017, 2018 and again in 2019, to permit recovery of costs for specific IP Relay outreach efforts to meet the TRS needs of people who are deaf-blind.<sup>34</sup>

*Other Outreach Expenses.* The Commission also found that special circumstances warrant a limited waiver of the prohibition against compensation for IP Relay outreach costs. This waiver (1) will serve the public interest by enabling outreach to potential IP Relay users not currently being reached by the National Outreach Program; and (2) will not undermine the policy underlying the rule because Sprint, as the sole provider of IP Relay service, has little incentive to divert outreach funds to branded marketing.

Sprint, as the only remaining IP Relay service provider, is required to report historical and projected costs to the Administrator on an annual basis. Reporting on the Sprint cost data at this point will reveal information considered to be confidential by Sprint.

In view of the relatively stable level of IP Relay demand, Rolka Loube recommends that the IP Relay rate continue to include the allowance for deaf-blind outreach activities. Because the Commission has adopted the inclusion of an operating margin rather than a return on investment when determining rates for VRS and IP CTS, Rolka Loube also recommends supplementing the IP Relay rate with an operating margin rather than a return on investment. By adding in deaf-blind outreach activities and the 12.35% operating margin previously selected by the Commission for operating margin, the fund requirements and contribution factor recommendation include the recommended rate of \$1.7146.

## **E. Video Relay Service Formula Development**

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this case 2018) is a reasonably accurate predictor of actual costs incurred for the Fund Year. *2017 VRS Rate Order*, 32 FCC Rcd at 5928-29, para. 69.

<sup>34</sup> See *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, para. 19; see also *2017 TRS Rate Order*, 32 FCC Rcd at 5145-46, paras. 11-13; *2018 TRS Rate Order*, 33 FCC Rcd at 6304, para. 11.

On June 10, 2013, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, herein referred to as the “VRS Reform Order” in which it revised the Tier structure and established the VRS compensation rates to be used through June 30, 2017, unless otherwise set by further Commission Order.

The Commission established the current VRS reimbursement rates and the Tier structure in the Report and Order and Order (*Report and Order*) adopted and released July 6, 2017, in CG Docket No. 10-51 and 03-123 (FCC 17-86). The referenced Report and Order addressed Allowable Cost Categories, Capital Cost Recovery and Operating Margin, Rate Structure, the Tier structure and Tier levels and related compensation matters.

The tiers which became effective in July 2017 through June 30, 2021 are shown in Table 2 below:

**Table 2: Reconfigured Rate Tiers for VRS Compensation  
2017 – 2021**

Tier Numbers	Previous Tier Definition (The range of a provider’s monthly VRS minutes to which the Tier is applicable)	New Tier Definition (The range of a provider’s monthly VRS minutes to which the Tier is applicable)
Emergent		0-500,000
I	0-500,000	0-1,000,000
II	500,000.1-1,000,000	1,000,000.1 – 2,500,000
III	Over 1,000,000	Over 2,500,000

The progressive adjustment of rates for each tier is illustrated in Table 3 below, which shows the rates adopted for fund years 2017-18, 2018-19, 2019-20, and 2020-21.

**Table 3: Rates Adopted for Fund Years 2017-18 through 2020-21**

Per FCC 17-86	2017-2018	2018-2019	2019-2020	2020-2021
Emergent service < 500,000 minutes/month	\$5.29	\$5.29	\$5.29	\$5.29
Tier I service up to 1,000,000 minutes/month	\$4.82	\$4.82	\$4.82	\$4.82
Tier II service over 1 million up to 2,500,000 minutes/month	\$3.97	\$3.97	\$3.97	\$3.97
Tier III service over 2,500,000 minutes/month	\$3.21	\$2.83	\$2.63	\$2.63

The rates established in the Report and Order are to be applied as scheduled to all VRS providers absent further action by the Commission.

Although the Commission has adopted a four-year Tier and Rate plan, Video Relay Service providers are required to report historical and projected costs to the Administrator on an annual basis.

For analysis purposes, the Administrator segregated the provider historical and projected costs into eight distinct categories for review:

- **Facilities** - expenses associated with land and buildings, etc.;
- **CA Related Expense** - costs of the individuals performing the interpretive services;
- **Non-CA Relay Center Expense** - other costs associated with the relay center, including supervisory management, telecommunications expense, etc.;
- **Indirect Expense** - finance, human resources, legal expenses, executive compensation, etc.;

- **Depreciation Expense** - annual depreciation on facilities and equipment;
- **Marketing Expense** - projected costs of advertising the provider's service;
- **Other Expenses** - projected expenses not directly associated with one of the other expense categories; and
- **Operating Margin** - assumed percentage within the FCC-determined "Zone of Reasonableness."

Data submitted by the providers in response to the Administrator's Annual Data Request are shown below. The data is summed across the providers by category and then divided by annual VRS minutes.

**Table 4. VRS Service Provider Reported and Projected costs**

Category	2018	2019	2020	2021	2020-2021 Average
Facilities	0.1800	0.1825	0.1948	0.1985	0.1967
CA Related	1.3910	1.3880	1.4717	1.4928	1.4823
Non-CA Relay Center	0.3099	0.2851	0.2916	0.2967	0.2942
Indirect	0.5404	0.5688	0.6569	0.6725	0.6647
Depreciation	0.0910	0.0705	0.0587	0.0617	0.0602
Marketing	0.0940	0.1038	0.1010	0.1115	0.1063
Other	0	0	0	0	0
Operating Margin	0.2606	0.2599	0.2775	0.2834	0.2804
Total Cost	2.8669	2.8585	3.0523	3.1172	3.0847

The average cost of VRS service is projected to increase \$0.222 from the two-year historic average of \$2.8627<sup>35</sup> to \$3.0847, in the projected two-year average. CA related expenditures per minute are projected to increase from \$1.3880 in 2019 to \$1.4717 in 2020 and to \$1.4928 in 2021. Non-CA Relay Center related expenditures per minute are projected to increase slightly from \$0.2851 in 2019 to \$0.2916 in 2020 and to \$0.2967 in 2021. Indirect per minute expenditures to increase from \$0.5688 in 2019 to \$0.6569 in 2020 and to \$0.6725 in 2021.

#### **IV. Demand Projection Methodology**

In order to estimate the annual funding requirement and propose a contribution factor, an estimate of the interstate funding requirement for each of the services is required. The fund requirement equals the service rate multiplied by the service demand reimbursed during the program year, July through June. The Administrator has adjusted the demand levels of the rate year to reflect the two-month difference between the provision of service and the reimbursement for that service. Providers of services being compensated using the MARS-based rate methodology, (i.e. traditional TRS, STS and CTS) are not required to submit demand projections.

In this report, as was done previously, historical demand was used to estimate the future demand for traditional interstate TRS, STS and CTS. Using the regression data analysis tool of Microsoft Office Excel, the Administrator projected demand for the 2020-2021 fund year using actual data available to the Administrator at the time the filing is due to the Commission.<sup>36</sup> For each of these services, the Administrator projected demand and an estimated funding requirement based on the proposed compensation rates for the funding year. This approach has historically provided reasonably accurate results for these services.

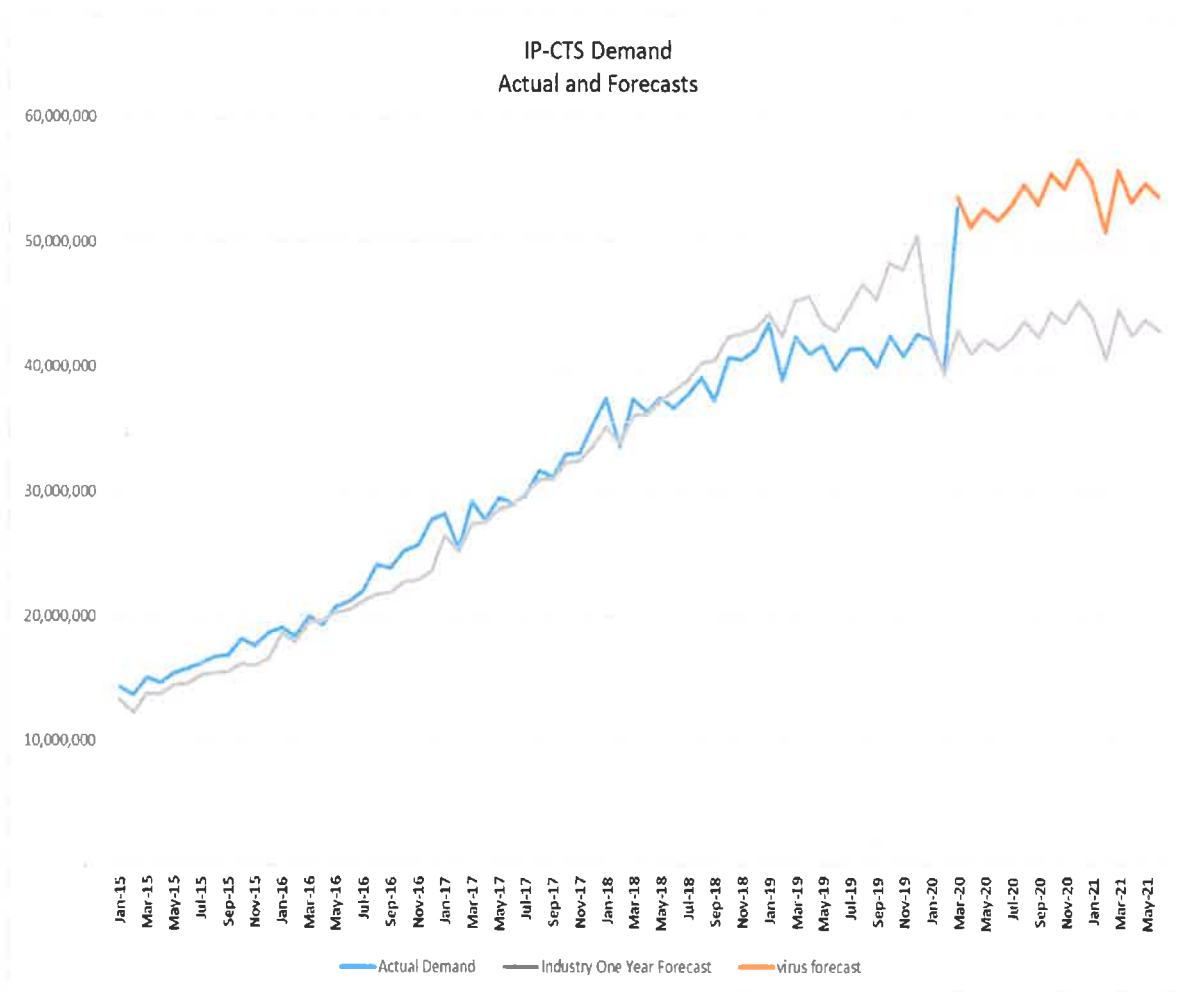
The Administrator has historically used the forecasts submitted by the providers for IP Relay, IP CTS and VRS services. This approach has historically provided reasonably accurate results for these services. However, the reported demand for

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<sup>35</sup> Fund Year costs are the average of the two historical or projected years that are part of the program year that begins July and ends June.

<sup>36</sup> In most instances this embodies July 2015 through March 2019 minutes.

services spiked dramatically above the projected demand for March 2020 and it is anticipated that demand will remain high for the duration of the COVID-19 pandemic. Due to the uncertain impact of the pandemic on projected demand the Administrator has applied a 25% increase to the provider projected demand for the months May 2020 through April 2021 when determining the fund requirements. The following graph shows the IP CTS reported and projected demand. Rolka Loube recommends that the Commission direct the Administrator to monitor provider costs through June 2020 and report further on the status of the fund, no later than December 31, 2020.



The Administrator has applied the rate of \$1.58 applicable to IP CTS awaiting further direction from the Commission regarding the pending rulemaking. The IP Relay reimbursement rate has been developed consistent with the Commission's determination

in the 2019-2020 rate Order.<sup>37</sup> The VRS reimbursement rate is not subject to change and remains at the level previously specified by the Commission.

The IP CTS industry demand projection for the 2020-2021 funding year totals 517,476,253 minutes,<sup>38</sup> a significant decrease<sup>39</sup> when compared to the projection for the 2019-2020 fund year of 568,474,075 minutes.<sup>40</sup> Throughout the current program year the reported demand for IP Relay and VRS Service closely tracked projected demand. However, IP CTS remained well below the level projected for this fund year, until the impact of the pandemic began to be experienced in mid-March, not only for IP CTS but also for each of the IP based services. The reported March demand, for each IP based service, exceeded the levels projected for the service last year.

## **V. Additional Funding Requirements**

### **A. National Deaf-Blind Equipment Distribution Program**

In its August 4, 2016 Order,<sup>41</sup> the Commission permanently established a National Deaf-Blind Equipment Distribution Program (NDBEDP) to certify and provide reimbursement to entities in each state so that they can distribute specialized CPE to low-income individuals who are deaf-blind.<sup>42</sup> Funding for this program has been established at \$10,000,000 per year beginning with the 2012 – 2013 fund year. As such, \$10,000,000 has been included in the Interstate TRS funding requirement for the 2020-2021 fund year.

Allowances for ongoing VRS reforms, database administration, fund administration, data collection agent costs, TRS Fund Advisory Council expense, audits of service providers, an independent financial audit of the fund, bankruptcy

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<sup>37</sup> See Order, CG Docket Nos. 03-123 and 10-51 Rel. June 28, 2019, DA 19-607.

<sup>38</sup> May 2020 – April 2021.

<sup>39</sup>  $(517,476,253/568,474,075=91\%)$

<sup>40</sup> May 2019 – April 2020.

<sup>41</sup> See: FCC 16-101 adopted August 4, 2016, Rel. August 5, 2016.

<sup>42</sup> *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, CG Docket No. 10-210, Adopted April 4, 2011



representation, the development and implementation of an IPERIA audit plan approved by the OMB, and identity validation costs totaling \$19,251,000 are included as other TRS Fund administration costs.

## **VI. Contribution Factor Calculation**

As previously noted, reimbursement requests are to be processed within sixty (60) days of receipt by the Administrator. Operationally, service provided in May will be reported to the Administrator in June and paid in July, the first month of the upcoming program year. Similarly, service provided in June will be reported in July and paid in August, the second month of the upcoming program year. To accurately account for this lag, the Administrator's funding recommendation for the fund year from July 2020 through June 2021 reflects the demand for the May 2020 - April 2021 time period. The Administrator has recommended that the payment reserve incorporate a two-month accrual for anticipated provider distributions that will be paid in the following year (i.e. May 2021 and June 2021).

Collectively, anticipated expenditures for the six relay services and the additional fund requirements total \$1,909,678,939. Interest on invested funds for the July 2020-June 2021 period is projected to be zero and is no longer available to be subtracted as an offset from these projected fund requirements in calculating the 2020-2021 budget.

Historically, the Administrator has recommended that the TRS Fund include an additional component to protect the Interstate TRS program from running short of available funds before the end of the TRS Fund year. In its 2009 and 2010 Rate Orders, the Commission accepted the Administrator's recommendation to include a surplus of one month's projected distributions to providers.<sup>43</sup> The Administrator recommended for the 2014-2015 funding year that the budgetary reserve be increased to two months. The reserve is a reasonable precautionary measure to guard against the possibility of unanticipated demand for TRS that can unexpectedly increase the need to fund payments during the course of a fund year. In the 2014-2015 Rate Order,<sup>44</sup> the Commission

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<sup>43</sup> Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, CG Docket No. 03-123, 23 FCC Rcd 9976 (2008 Rate Order) at n. 56

<sup>44</sup> See DA 14-946, para. 23.

accepted the change to increase the reserve as described. The use of a budgetary reserve of two months of projected distributions to providers is comprised of a reserve attributable to projected May and June 2021 IP CTS service in the amount of \$171,433,015 and a reserve attributable to all other projected TRS and IP-based Services for May and June 2012 in the amount of \$98,715,122 for a combined total reserve of \$270.1 million. It is anticipated that there will be a surplus of approximately \$275 million on June 30, 2020, which is deducted from the funding requirement when determining the contribution factor.

The total projected net funding requirement for the 2020-2021 funding year is estimated to be \$1,634,678,939. The component parts of the projected funding requirement are displayed in Exhibit 2.

Based on the 2020-2021 demand projections and the proposed rates contained herein, coupled with the anticipated calendar-year 2019 revenue bases, the Administrator estimates that the contribution factors are 0.01381 for non-IP CTS TRS services and 0.00941 for IP CTS services.

## **VII. Program Administration**

### **A. Interstate TRS Fund Advisory Council Reports**

Pursuant to section 64.604 of the Commission's rules, the Advisory Council (Council) offers recommendations to the Administrator regarding interstate TRS cost-recovery matters.<sup>45</sup> The Advisory Council includes non-paid volunteers from the hearing and speech disability community, TRS users (voice and text telephone), state regulators and relay administrators, interstate service providers, and TRS providers. Appendix C contains a listing of current Advisory Council members.<sup>46</sup>

On September 15, 2019, the Advisory Council met in Phoenix, Arizona. The meeting included an extensive overview of developments at the FCC presented by Eliot

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<sup>45</sup> 47 C.F.R. § 64.604 (c)(5)(iii)(H).

<sup>46</sup> In a July 1999 Order, the FCC authorized the addition of a position in the hearing and speech disability community category for a representative from the speech disability community. *See Appointment of the*

Greenwald, Deputy Chief, Disability Rights Office (DRO) of the FCC and a discussion of the Health of the Fund by the Administrator, Rolka Loube. The Council members expressed interest in matters relating to the potential authorization of the service known as Automated Speech Recognition (ASR), the potential certification of several pending ASR providers' applications and the potential impact on IP CTS service. A few questions were raised regarding the potential impacts of potential government shutdown and debt limits. There were observations regarding the adverse impact of the lack of salary adjustments for several years on the quality and number of qualified interpreters. Concern was registered regarding the potential uses of personal information required for identity validation by the entities collecting the information from users, as well as the multiple obstacles to accessing services inherent in the number of agencies that can be involved. During the new business portion of the meeting the Council established a new subcommittee to identify deaf-blind issues specifically related to the TRS fund, and also established a subcommittee to consider the recommendations of the Disability Advisory Council (DAC) to the Commission and the implementation of an IP CTS User Registration Database (URD) on the fund. The Council also continued interest in the work of a subcommittee that subject to non-disclosure agreements with the service providers will once again have access to the service provider annual cost and demand submissions to the Administrator.

The method and sequence of conducting the spring 2020 meetings and of the TRS Fund Advisory Council has been modified from the traditional practices in deference to the social distancing practices in place during the current health pandemic. On April 3, 2020, the Council conducted an abbreviated virtual meeting, via Zoom, in lieu of an in-person meeting. The meeting was scheduled to be held virtually due to the governmental limitations recommend in response to the COVID-19 pandemic. All members were able to participate, and members of the public were also able to attend the virtual proceedings. The virtual meeting included an overview of developments at the FCC related to COVID-19, presented by Eliot Greenwald, Deputy Chief, Disability Rights Office (DRO). An

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*Telecommunications Relay Services (TRS) Fund Administrator and Composition of the Interstate TRS Advisory Council*, CC Docket No. 90-571, Memorandum Opinion and Order, 14 FCC Rcd 10553 (1999).

overview of the draft findings to be submitted to the FCC was presented by Robert Loube and Garrett McGrath of Rolka Loube. The topics addressed included compensation rates, demand projections and contribution factors, based on the annual data collection from state programs and from certified service providers applicable to the fund year beginning July 1, 2021. Those same logistical limitations and complications of the virtual meeting were applicable to the work of the Council sub-committee regarding confidential access to service provider cost submissions by the members of the Advisory Council subcommittee. The sub-committee access to provider cost and demand data, and ability to comment on the Rolka Loube presentation during the virtual meeting of the full Advisory Council were incomplete. The subcommittee review of provider cost data has continued following the April 3, 2020, meeting with the expectation of providing comments to the full membership for consideration and eventual recommendation to Rolka Loube prior to Rolka Loube submitting comments in response to the FCC formal comment period following the April 30, 2020 submission. The sub-committee has indicated its intention to comment on the following subjects: provider research and development expenditures; a tiered IP CTS rate structure; a temporary freeze of the IP CTS rate; the period for updating pandemic related demand and cost data; as well as a timeline for consideration of an appropriate rate(s) determination methodology. The new business and other business of the Council was deferred to be addressed during the regularly scheduled Health of the Fund conference call to also be conducted via Zoom. The minutes of the September 2019 and the April 2020 meetings were not available in time for this submission but may be submitted to the Commission during the anticipated comment period on this Annual Report recommendation.

## **B. Audit Report**

Included in Appendix E is a copy of the TRS Fund Performance Status comparing the projected budgetary levels for the current program year with the actual results of operations for the period July 2018 through March 2019.

## **Appendices:**

- Appendix A** Interstate TRS Fund 2018 Intrastate Rate and Minute Data for MARS Methodology (State Data Collection Form & Instructions)
- Appendix B** Interstate TRS Fund Annual Provider Information (Provider Data Collection Form & Instructions)
- Appendix C** Current Advisory Council Members
- Appendix D** TRS Council meeting Minutes of September 2019 and April 2020 were unavailable at the time of submission.
- Appendix E** TRS Fund Status Report through March 2020.
- Appendix F** The 2019-2020 Rolka Loube Report

## **Exhibits:**

- Exhibit 1-1** Displays TRS & STS data collected from states for the Interstate MARS rate calculation.
- Exhibit 1-2** Displays CTS data collected from states for the Interstate MARS rate calculation.
- Exhibit 1-3** IP CTS historical cost, Rate and demand data.
- Exhibit 1-3.1** --- IP CTS Revenue, Expense and Profit Estimates for Tariff Year 2019-2020 (REDACTED) (**HIGHLY CONFIDENTIAL, NOT FOR PUBLIC INSPECTION**).
- Exhibit 1-3.2** --- IP CTS Cost Trend Data
- Exhibit 1-4** **Graph** Displaying IP CTS Historical and Projected Demand
- Exhibit 2** Displays the proposed Interstate TRS Fund Size and Contribution Factor for the July 2020 through June 2021 Fund Year.
- Exhibit 3** Historical Contribution Base Data
- Exhibit 4** Erosion of 2019-2020 Contribution Base.